

## **REMARKS/ARGUMENTS**

### **Status of the Claims**

Before this Amendment, claims 1 – 55 were present for examination. Claims 1, 15, 27, 43, and 49 are amended. No claims are canceled or added. Therefore, claims 1 – 55 remain present for examination, and claims 1, 15, 27, 43, and 49 are the independent claims. Applicants respectfully request reconsideration of the application, as amended, for the reasons that follow.

### **35 U.S.C. §103 Rejections**

The Office Action rejected claims 1 – 55 under 35 U.S.C. §103(a) as being unpatentable over the cited portions of Zimmers et al., U.S. Patent No. 6,816,878 (“Zimmers”), in view of the cited portions of Hunter et al., U.S. Patent No. 7,233,781 (“Hunter”), and in further view of the cited portions of Edson, U.S. Patent No. 6,526,581 (“Edson”).

In order to establish a *prima facie* case of obviousness, all claimed limitations must first be taught or suggested by the prior art. *See, e.g., DyStar Textilfarben GmbH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1360 (Fed. Cir. 2006). The Office Action must then provide an explicit analysis supporting the rejection. *See KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (“a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art”). While the Office Action can use one of several exemplary rationales from the MPEP to support an obviousness rejection under *KSR*, all the rationales still require the Office Action to demonstrate that all the claim elements are shown in the prior art. *See* MPEP §2143. However, as will be discussed below, the references cited by the Office Action and ordinary knowledge in the art fail to teach or suggest all the recitations of independent claims 1, 15, 27, 43, and 49.

Specifically, Zimmers, Hunter, and Edson cannot be relied upon to teach or suggest, alone or in combination: (1) “receive an alert ... being configured to describe an event and comprising event information characterizing the event”; or (2) “wherein the alert gateway is in communication with two or more types of subscriber equipment, and is configured to analyze

the event information and to determine to which of the two or more types of subscriber equipment to provide the alert as a function of analyzing the event information,” as generally recited in independent claims 1, 15, 27, 43, and 49.

Notably, the claims are currently amended to more clearly recite that the determination of which of the two or more types of subscriber equipment to provide the alert is made as a function of analyzing the event information, which characterizes an event described by the alert. For example, if the alert is a weather alert about a tornado warning, the event information may describe the tornado warning, geographic characteristics (e.g., which counties are affected), time characteristics, intensity, updates, etc. The event information may then be used to determine which of the two or more types of subscriber equipment should be providing the alert.

It appears that Examiner’s opinion is as follows. Zimmers apparently suggests a device for distributing alert notifications to a single client device and formatting the alert data packets for that client device. Office Action, pp. 3, 6 – 10. However, the Office Action correctly seems to admit that Zimmers fails to teach or suggest (a) an alert gateway in communication with two or more types of subscriber equipment, or (b) an alert gateway within a consumer premises. Office Action, pp. 3, 6 – 10. Regarding Zimmers’ first deficiency, Edson is apparently used to suggest a home networking router that can prioritize and distribute messages to multiple devices, but does not disclose receipt or distribution of any type of “alert,” as recited in the claims. Office Action, pp. 3, 10, 11. Regarding Zimmers’ second deficiency, Hunter is apparently used to suggest a device at a customer premises for detecting a received alert (the Microprocessor 1108 examines the headers of each message or data packet) and communicating the alert to a customer device. Office Action, pp. 4, 11, 12.

Even if, *arguendo*, all the above is assumed to be correct, the art would still fail to teach or suggest “receive[ing] an alert ... being configured to describe an event and comprising event information characterizing the event..., wherein the alert gateway is in communication with two or more types of subscriber equipment, and is configured to analyze the event information and to determine to which of the two or more types of subscriber equipment to

*provide the alert as a function of analyzing the event information,*” as generally recited in independent claims 1, 15, 27, 43, and 49. For example, the Office Action appears to find two possible suggestions of analyzing the alert.

First, the Office Action contends “that Edson’s Router 103 performs an act of ‘analyzing’ incoming information by determining which internal interface should be used to provide the information to the intended internal device (as described in Col. 10 Lines 24-65).” Office Action, p. 4. In Applicants’ previous Response dated January 7, 2010, it was noted that various portions of Edson (Col. 10, Lines 59 – 62; Col. 11 Lines 3 – 19) merely seem to discuss prioritizing and routing of communications, and there is no suggestion or teaching of any sort as to analyzing the alert signals. In fact, according to the cited portion of Edson, the routing of communications is based on well-known methods, such as a packet-switched routing (“The router 103 provides packet-switched routing to and from the various interfaces 121, 123 and 125, to enable communication between the various devices within by the premises”). As is known to one of ordinary skill in the art, packet switching is a digital network communications method that groups all transmitted data – *irrespective of content, type, or structure* – into suitably-sized blocks, called packets. Thus, Edson teaches away from determining to which of the two or more types of subscriber equipment to provide the alert *as a function of analyzing the event information* (even if assuming, *arguendo*, that the Edson gateway is receiving alerts). As such it would be unreasonable to construe Edson as teaching or suggesting the type of alert analysis recited in the claims, even if all the other art were construed as presented in the Office Action.

Second, the Office Action apparently implies that Hunter distributes alerts to devices by analyzing the alert. Office Action, pp. 4, 11, 12. However, as discussed above, Hunter discusses only that its Microprocessor 1108 examines the headers of each message or data packet to determine whether the message is an alert and whether to communicate it as such to a customer device (Hunter, Col. 15 Lines 8 – 59). Even if this were construed as analyzing the message to determine whether it is an alert at all, there would still be no suggestion of analyzing the event information and determining to which of two or more types of subscriber equipment to provide the alert as a function of analyzing the event information, as recited in the claims.

Moreover, as noted in Applicants' previous Response dated January 7, 2010, Hunter repeatedly states that emergency notifications are sent to a "device corresponding to each user" (Hunter, Abstract; Col. 3, line 2; Col. 4, lines 2, 16, and 38 – 39; *et al.* (emphasis added)). As such, there appears to be no teaching or suggestion in Hunter of an alert gateway "in communication with two or more types of subscriber equipment" at all, let alone of determining to which of two or more types of subscriber equipment to provide the alert as a function of analyzing the event information, as recited in the claims.

For at least the reasons discussed above, the cited art fails to teach or suggest the recitations of independent claims 1, 15, 27, 43, and 49. Further, the Office Action does not provide any teaching from other art or reason why this recitation would be within the knowledge of a person of ordinary skill in the art. As such, the combined teachings of the art, as cited by the Office Action, fail to establish a *prima facie* case of obviousness as to the independent claims. Claims 2 – 14, 16 – 26, 28 – 42, 44 – 48, and 50 – 55 are believed allowable at least for reasons of their dependence from allowable base claims. Applicants, therefore, respectfully request that the §103 rejections to all the claims be withdrawn.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

*/Daniel J. Sherwinter/*

Daniel J. Sherwinter  
Reg. No. 61,751

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 303-571-4000  
Fax: 415-576-0300  
D6S:s5k  
62624779 v1